

STATE OF OKLAHOMA



**OKLAHOMA**  
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& Enterprise Services

**Oklahoma Tax Commission**  
Procurement Audit

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## AUDIT SUMMARY

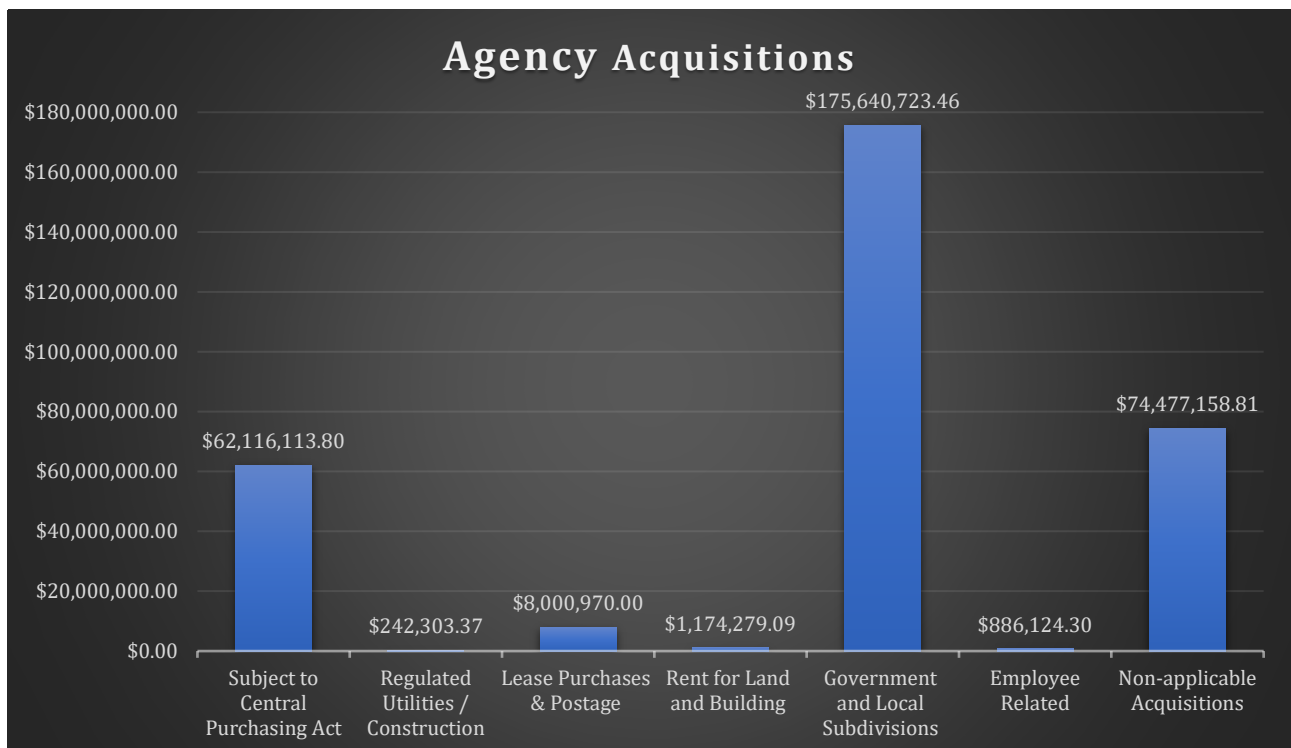
### Oklahoma Tax Commission (OTC) – Procurement Audit

#### Why this audit was conducted

This report provides information on the agency’s compliance with the Central Purchasing Act (CPA), Oklahoma Administrative Code 260 §115, the agency’s approved internal purchasing procedures, and the strength and execution of the agency’s purchasing internal control structure.

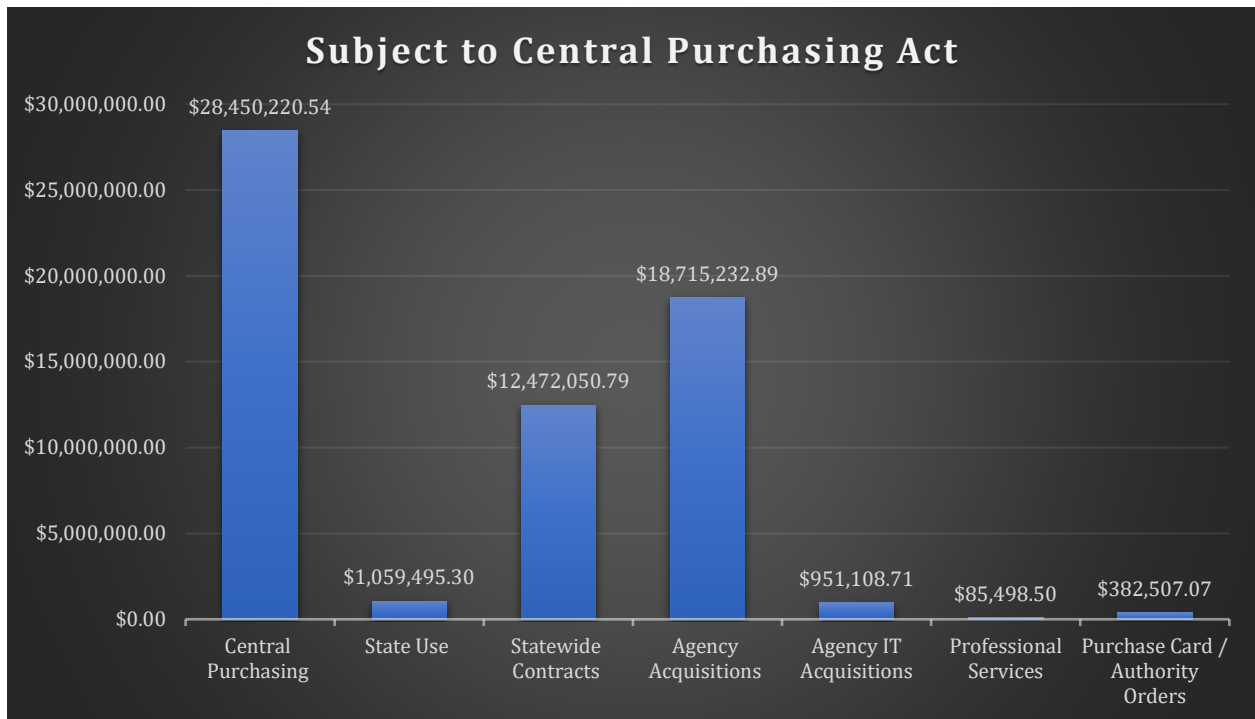
#### Summary of acquisitions

In total, the OTC processed 3,943 acquisitions during the audit period from June 1, 2021 to June 8, 2022. Acquisitions were obtained by compiling non-cancelled purchase orders, expenditures with no purchase order number, and audit period expenditures on prior-to-audit-period purchase orders totaling \$322,537,672.83. Acquisitions were then separated into the following categories: subject to Central Purchasing Act (CPA); regulated utilities and construction; lease purchases and postage; rent for land and building; government and local subdivisions; and employee related expenses. The agency’s acquisitions subject to the Central Purchasing Act totaled \$62,116,113.80. The remaining acquisition categories are not subject to the Central Purchasing Act; therefore, they were not included in the audit. The chart below depicts agency acquisitions by category during the audit period.



### Purchasing delegated to the agency

The agency's acquisitions subject to the Central Purchasing Act total \$62,116,113.80. The primary focus of the audit was the purchases delegated to the agency through the state purchasing director. The delegated purchases included agency open market acquisitions, service contracts (including Title 18 professional services contracts), sole source / sole brand acquisitions and fixed rate contracts. The agency's acquisition responsibility for purchases processed in association with the audit period, in accordance with the Central Purchasing Act included agency acquisitions totaling \$18,715,232.89 and agency IT acquisitions totaling \$951,108.71. This amount does not include purchase card transactions. A separate audit was performed for purchase card transactions. 36% of agency open market acquisitions (93% of open market expenditures) and 51% of open market IT acquisitions (92% of open market IT expenditures) were tested. The classical variable sampling method was used to extract a sample of acquisitions from the following threshold categories: \$0 to \$25,000, greater than \$50,000, and IT \$0 to \$25,000. All transactions were tested in the following threshold categories: \$25,000.01 to \$50,000, IT \$25,000.01 to \$50,000, and IT greater than \$50,000; therefore, the classical variable sampling method was not used in these categories. The acquisitions performed by the agency in relation to purchases subject to the Central Purchasing Act are categorized in the chart below.



### What was found

Analytical testwork was performed during the substantive testwork phase of the audit, and 64 purchases/expenditures were tested against compliance requirements. Two formal findings were written, and it is determined that OTC is significantly compliant with the

Central Purchasing Act and the Oklahoma Administrative Code 260 §115. Additionally, it is determined that the agency is significantly compliant with the agency’s internal purchasing procedures.

**Agency accomplishments**

OTC is commended for its internal controls and administrative processes throughout the procurement process. During the audit period, the agency has excelled in creating an effective internal requisitions submission and approval process. All purchases require an internal purchasing requisition designed to collect relevant information concerning the purchase request and to ensure the required approvals are obtained by routing the requisition through the appropriate levels of management. This process significantly reduces the risk of prohibited or non-compliant purchases within the agency. Additionally, the agency is commended for its proactivity and willingness to improve the procurement program. The agency has exceptionally responsive and well-organized procurement officers who diligently oversee the program.

**AUDIT FINDING SUMMARY**

**Finding 22-695-01: IT Accessibility Clause:**

11 of 13 information technology acquisitions totaling \$318,345.22 (85% error rate and 50% expenditure error rate) contained neither the clause ensuring compliance with IT Accessibility Standards nor an exception to the IT Accessibility Standards clause.

**Finding 22-695-02: Internal Purchasing Procedures**

Two of seven acquisitions totaling \$12,000.00 between \$5,000.01 and \$25,000.00 (29% error rate and 17% expenditure error rate) did not contain price and delivery date quotations (RFQ) from three or more prospective suppliers as required by the Oklahoma Tax Commission’s approved internal purchasing procedures.

**DETAILED FINDINGS**

**Finding 22-695-01: IT Accessibility Clause**

**Condition:** During the substantive testwork phase of the procurement audit, it was noted that 11 of 13 information technology acquisitions totaling \$318,345.22 (85% error rate and 50% expenditure error rate) contained neither the clause ensuring compliance with IT Accessibility Standards nor an exception to the IT Accessibility Standards clause.

#	PO NUMBER	PO DATE	VENDOR NAME	AMOUNT
1	6959009777	11/18/2020	THE AMERICAN ASSOCIATION OF MOTOR VEHICL	\$86,851.08



#	PO NUMBER	PO DATE	VENDOR NAME	AMOUNT
2	6959009797	12/09/2020	IBML	\$12,800.00
3	6959009823	02/10/2021	JD POWER	\$60,000.00
4	6959009832	03/01/2021	R L POLK & COMPANY	\$32,337.00
5	6959009881	04/28/2021	COMPUTER PROJECTS OF ILLINOIS INC	\$360.00
6	6959010030	09/30/2021	THE AMERICAN ASSOCIATION OF MOTOR VEHICL	\$76,201.14
7	6959010079	12/07/2021	AUDIMATION SERVICES INC	\$2,360.00
8	6959010088	12/20/2021	CUMMINS-ALLISON CORP	\$5,433.00
9	6959010096	01/07/2022	CCH INCORPORATED	\$13,903.00
10	6959010114	02/04/2022	R L POLK & COMPANY	\$27,500.00
11	6959010132	03/25/2022	KELLPRO INC	\$600.00
<b>TOTAL</b>				<b>\$318,345.22</b>

**Cause:** The agency did not consider purchase order number 6959009797 to be an information technology acquisition. Additionally, the agency believed this clause was covered in the Sole Source Non-Collusion form signed by the vendor for purchase orders 6959009797, 6959010096, 6959009832, 6959010114, 6959010030, and 6959009777. In final, purchase order number 6959010030 was issued by Central Purchasing. The agency believed Central Purchasing would add the necessary clause. The cause for the remaining purchase orders is unknown.

**Effect or Potential Effect:** The IT Accessibility Clause is an essential part of the evaluation process in all IT acquisitions. Without the inclusion of this clause in the supplier’s contract, there is no verification that the evaluation process included the IT Accessibility Clause. There is an increased possibility for vendor protests that result in awards being overturned. Without this IT Accessibility Clause in the supplier’s contract, the selection method for the contract lacks support.

**Criteria:** The Oklahoma Administrative Code **260:115-7-54 (2)(3)(4) - Accessible information technology acquisitions** states:

**2. Contract clauses.**

1. All solicitations and contracts for information technology shall include the accessibility clause adopted by the Information Services Division pursuant to 62 O.S. §34.28.
2. The IT Accessibility Standards shall be published on the OMES website.
3. A supplier shall provide a written certification, signed by an authorized officer of the supplier, describing the extent to which the product or service complies with applicable IT Accessibility standards required by such contracts or solicitations prior to the expenditure of state funds. An agency may also utilize a VPAT

published on a supplier's primary website. A VPAT obtained from a supplier website shall be good for a one-year period.

**3. Exceptions.** Exceptions to compliance with IT Accessibility Standards include:

1. Information technology operated by state departments or agencies, the function, operation or use of which involves intelligence activities, crypto logic activities related to public safety, command and control of law enforcement, equipment that is an integral part of a weapon or weapons system or systems which are critical to the direct fulfillment of public safety or intelligence missions. Systems which are critical to the direct fulfillment of public safety or intelligence missions do not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics and personnel management applications);
2. Information technology acquired by a contractor or grantee incidental to a contract or grant, provided the technology does not become State property upon the completion of the contract;
3. Information technology located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;
4. Information technology requiring a fundamental alteration in the nature of a product or its components to achieve accessibility;
5. Except as required to comply with the IT Accessibility Standards, state departments and agencies are not required to install specific accessibility-related software or attach an assistive technology device to information technology products unless required by other applicable State or Federal laws;
6. When state agencies provide public access to information or data through information technology, agencies are not required to make products owned by the agency available for access and use by individuals with disabilities at a location other than where the information technology is provided to the public, or to purchase products for access and use by individuals with disabilities at a location other than where the information technology is provided to the public;
7. Information technology that would impose an undue burden on the agency.

**4. Documentation of exceptions.** Whenever an agency determines that an acquisition exceeding \$5,000.00 meets the criteria of a general exception or undue burden, the agency shall document the explanation of why, and to what extent, compliance with applicable IT Accessibility Standards meets an exception or creates an undue burden on the agency. Agencies are encouraged but not required to maintain documentation for commercial off-the-shelf acquisitions of \$5,000.00 or less unless the purchase is part of an existing contract or affects a larger EIT system where accessibility is critical.

1. The explanation shall be documented on a form prescribed by the Information Services Division and signed by the chief administrative officer of the agency or

an employee of the agency to which responsibility for accessibility compliance has been delegated.

2. The documentation shall be retained in the acquisition file to support the procurement.

**Recommendation:** It is recommended that the agency develop and implement a process to ensure all documentation, including the IT Accessibility Clause, is handled appropriately and retained in the acquisition file. An acquisition checklist can be helpful if put in each acquisition file to ensure all requirements have been satisfied.

**Management’s Response**

**Date:** 09/12/2022

**Respondent:** Director of Business Operations

**Response:** Concur

All requisitions recorded to IT expenditure account codes will be reviewed to ensure either the clause ensuring compliance with IT Accessibility Standards or an exception to the IT Accessibility Standards clause is included in solicitations and contracts.

**Corrective Action Plan**

**Contact person:** Primary CPO

**Anticipated completion date:** 09/16/2022

**Corrective action planned:** The Account Codes – IT Expenditures document has been provided to each Certified Procurement Officers (CPOs) to compare to the account code(s) provided by the budget analyst on each requisition. The CPOs have been instructed to determine if the clause ensuring compliance with IT Accessibility Standards or an exception to the IT Accessibility Standards clause is appropriate whenever an IT Expenditure account code is used.

**Finding 22-695-02: Internal Purchasing Procedures**

**Condition:** During the substantive testwork phase of the procurement audit, it was noted that two of seven acquisitions totaling \$12,000.00 between \$5,000.01 and \$25,000.00 (29% error rate and 17% expenditure error rate) did not contain price and delivery date quotations (RFQ) from three or more prospective suppliers as required by the Oklahoma Tax Commission’s approved internal purchasing procedures.

#	PO NUMBER	PO DATE	VENDOR NAME	AMOUNT
1	6959009894	05/12/2021	PRINT FINISHING SYSTEMS INC	\$6,000.00
2	6959010144	04/15/2022	PRINT FINISHING SYSTEMS INC	\$6,000.00
<b>TOTAL</b>				<b>\$12,000.00</b>

**Cause:** The purchase orders were issued after the fair and reasonable threshold was increased to \$25,000.00 in November of 2020. The Oklahoma Tax Commission believed that obtaining three quotes was no longer necessary. The Oklahoma Tax Commission was



informed by Central Purchasing that their internal purchasing procedures did not need to be approved before making acquisitions up to the \$25,000.00 limit.

**Effect or Potential Effect:** There is an increased risk of making noncompliant acquisitions when the agency’s purchasing procedures do not translate to the agency’s purchasing practices.

**Criteria:** The **Oklahoma Tax Commission Internal Purchasing Procedures § 3.1. – Determining the Method of Acquisition** states in part:

...

Step 4: After exhausting the supplier sources of Steps 1 through 3 above, without finding a mandatory contract, the CPO may make the acquisition from the open market pursuant to Central Purchasing Administrative Rules and under guidelines described in the following Solicitation Guidelines:

<b>Estimated Value:</b>	<b>Solicitation:</b>	<b>Procurement Notes:</b>
Up to \$5,000.00	Using “fair and reasonable” methods of procurement, contact 1 or 2 suppliers to describe the goods or service needed; discuss price & delivery terms to award P.O./Contract.	Fair and reasonable shall mean procurement practices that reflect equitable opportunity for businesses to provide goods and services at a reasonable price to OTC.
\$5,000.01 to \$25,000.00	Obtain price/delivery date quotations (RFQ) from three or more prospective suppliers by mail, fax or electronic commerce	OMES's pre-approval (formerly OSF Form 115) through e-pro workflow on IT & telecommunications-type acquisitions required, regardless of price.
\$25,000.01 to Agency authorized dollar workflow authority	Obtain bids (e.g., ITB or RFP) from all prospective suppliers through CPD registered vendor list, through solicitation process.	OMES's pre-approval (formerly OSF Form 115) through e-pro workflow on both IT- and telecommunications-type acquisitions, regardless of price.
Exceeding agency authorized dollar workflow authority	Submit purchase requisition to OMES/Central Purchasing.	OMES's pre-approval (formerly OSF Form 115) through e-pro workflow on both IT- and telecommunications-type acquisitions, regardless of price

**Recommendation:** It is recommended that the agency adhere to the internal purchasing procedures as designated by agency management. It is further recommended that the agency review and evaluate agency internal purchasing procedures to determine if the requirements mentioned in this finding are necessary, effective, and efficient for the procurement process. Upon completion of the review and evaluation of the agency’s internal purchasing procedures, the agency may decide to make revisions as deemed necessary. If revisions are made, the agency should submit the revised internal purchasing procedures to OMES Central Purchasing for approval.

### **Management’s Response**

**Date:** 09/12/2022

**Respondent:** Director of Business Operations

**Response:** Concur

The Commission will update Internal Purchasing Procedures § 3.1. – Determining the Method of Acquisition to increase the “fair and reasonable” method to a \$25,000.00 threshold and submit it to OMES Central Purchasing for approval. Additionally, the Commission will require the Certified Purchasing Officers to review the internal procedures annually for the purpose of ensuring purchasing practices are in compliance.

### **Corrective Action Plan**

**Contact person:** Primary CPO

**Anticipated completion date:** 11/30/2022

**Corrective action planned:** Submit the updated Internal Purchasing Procedures § 3.1. – Determining the Method of Acquisition to OMES Central Purchasing by 09/30/2022. Upon Central Purchasing’s approval of the Commission’s internal procedures, they will be distributed to the agency’s Certified Procurement Officers for review. The Certified Procurement Officers will continue to review the internal policy annually and attest to their reviews at calendar year-end and whenever new policies are submitted.

## APPENDIX

### Methodology

- Interviews were conducted with the agency’s staff members.
- Internal controls over the procurement program were documented and evaluated.
- Procurement acquisitions were examined.
- A statistical sample acquisitions was examined.
- Overall program compliance with the rules related to the audit objectives was evaluated.

### Sampling

IDEA data analysis software was used to categorize and sample units to be tested. Below is the table depicting the sampling size per stratified category for the standard procurement acquisitions. The total population for substantive testwork was 120 acquisitions totaling \$18,715,232.89 for non-IT acquisitions and 41 acquisitions totaling \$951,108.71 for IT acquisitions. The total sampled population for substantive testwork was 43 acquisitions totaling \$17,393,453.41 for non-IT acquisitions and 21 acquisitions totaling \$878,894.21 for IT acquisitions. Amounts reported in the chart below are based on the initial classification within each acquisition threshold.

	Acquisitions	Amount (\$)
<b>Population:</b>	<b>120</b>	<b>\$18,715,232.89</b>
<b>Subpopulations:</b>		
\$0 to \$25,000	80	\$377,454.95
\$25,000.01 to Agency’s Purchase Limit	10	\$363,878.03
Greater than Agency’s Purchase Limit	30	\$17,973,899.91
<b>Total:</b>	<b>321</b>	<b>\$18,715,232.89</b>
<b>Samples:</b>		
\$0 to \$25,000	15	\$123,402.37
\$25,000.01 to Agency’s Purchase Limit	10	\$363,878.03
Greater than Agency’s Purchase Limit	15	\$5,274,275.79
Auditor’s discretion	3	\$11,631,897.22
<b>Total:</b>	<b>43</b>	<b>\$17,393,453.41</b>



	<b>IT Acquisitions</b>	<b>IT Amount (\$)</b>
<b>IT Population:</b>	<b>41</b>	<b>\$951,108.71</b>
<b>IT Subpopulations:</b>		
\$0 to \$25,000	32	\$186,293.72
\$25,000.01 to Agency's Purchase Limit	3	\$95,928.77
Greater than Agency's Purchase Limit	6	\$668,886.22
<b>Total:</b>	<b>41</b>	<b>\$951,108.71</b>
<b>IT Samples:</b>		
\$0 to \$25,000	12	\$114,079.22
\$25,000.01 to Agency's Purchase Limit	3	\$95,928.77
Greater than Agency's Purchase Limit	6	\$668,886.22
Auditor's discretion	0	\$0.00
<b>Total:</b>	<b>21</b>	<b>\$878,894.21</b>

## EXECUTIVE SUMMARY

**Organization:** Oklahoma Tax Commission

**Mission statement:** Promote tax compliance through serving taxpayers with transparency and fairness in administration of the tax code and unparalleled customer service.

**History and overview:** Throughout the decades, the Tax Commission has prioritized a flexible organization that encourages keeping pace with changes in technology, government structure and the ever-changing lifestyles of our taxpayers.

The commission is responsible for the administration and enforcement of state tax laws, collection of most of all state-levied taxes, fees and licenses; and the subsequent apportionment and allocation of revenues earmarked to various state agencies and local units of government. In its quasi-judicial capacity, the commission has the authority to subpoena witnesses and records, to administer oaths and to render decisions appealable directly to the Oklahoma Supreme Court.

Each of the three members of the Commission is appointed, to a six-year term, by the governor and confirmed by the Oklahoma Senate. This gubernatorial appointment process has remained in effect since 1931, with changes established in 1947 by Oklahoma Legislature to stagger the terms. A commissioner appointment comes up every two years. The commissioners are responsible for the supervision of the administration and enforcement of state tax laws and the collection of most of all state-levied taxes and fees.

### Agency information

The agency is made up of 607 employees according to the Oklahoma Tax Commission as of June 8, 2022.

### Tax Commissioners

**Shelley Paulk**, Chairwoman

**Mark Wood**, Vice-Chairman

**Charles Prater**, Secretary-Member

### Key staff

**Doug Linehan**, Executive Director

**Patricia Garcia**, Director of Business Operations

**Dianne Smith**, Procurement Manager (Primary CPO)